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APR 13 2006

OFFICE OF PETITIONS

In re Application of :
ADACHI : DECISION ON PETITION
Application No. 10/802,922 :
Filed: March 18, 2004 :
Atty. Dkt. No.: M1071.1900 :

This decision is in response to the petition under 37 CFR 1.181 filed March 15, 2006.

This application was held abandoned January 12, 2006, for failure to timely file a proper response to the Notice of Allowance (Notice) mailed October 11, 2005. The Notice action set a three month statutory period for reply. This decision precedes Notice of Abandonment.

Petitioner argues that the Notice mailed October 11, 2005 was not received at the correspondence address of record for the instant application.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

In support of the petition, petitioner has provided a copy of the docket record where the Office communication would have been

entered had it been received along with a statement from practitioner that a search of the docket record and file jacket indicated that the Office communication was not received.

In view thereof, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

This application is being directed to Technology Center 1700 for re-mailing of the Notice.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.



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